

ATTACHMENT

Regarding applicant's argument that the references do not disclose E, the claimed relationship between developable surface and the final shape, in claim 1, applicant has only defined what E is and stated it must be low enough to prevent the component parts from creasing and tearing. Clearly, those in the art know that tearing of the parts is not desirable as it would result in a defective part. Therefore, one in the art would act to prevent this by reducing the amount of deformation applied to the parts in the mold, i.e. reducing E. Any determination of obviousness must include not only the specifics of what the references disclose, but what one of ordinary skill in the art would reasonably have done given the combination proposed in the rejection. Applicant has not shown that reducing the distance between the surface before molding and that after molding would not have been an obvious method of reducing the creasing and tearing in the article. This would appear to be routine optimization of the process, as would the determination of the number of components to use to cover the surface.

The fact that applicant has optimized a measurement that those in the art would know to optimize when using the combination of references does not make applicant's claims patentable.

As to the applicant's argument that examiner has not used any rationale in combining the references, examiner has explained the obvious combination. The rationales cited in KSD deal with the reasons for combining references, which examiner has explained. Examiner agrees that the examiner has not pointed out parts of the references that teach E. However, examiner is not using the references to show E.

Rather, examiner is using the references to show the combination and the selection of E flows naturally from the combination of references since one in the art would desire a product that would be useable and would optimize the process to do so. As stated in KSR, "a person of ordinary skill in the art is also a person of ordinary creativity, not an automaton." (KSR, 82 USPQ2d at 1397) A person of ordinary skill is capable of making decisions and optimizing a process to provide the desired product. Examiners are supposed to take into account "the inferences and creative steps that a person of ordinary skill in the art would employ." (KSR, 82 USPQ2d at 1396) The combination of Syed and Williamson teach all of the claim except E, which one in the art using "ordinary creativity" and "the inferences and creative steps" would be able to determine.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARBARA J. MUSSER whose telephone number is (571)272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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BJM
/B. J. M./
Examiner, Art Unit 1791

/Richard Crispino/
Supervisory Patent Examiner, Art Unit 1791